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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,731	07/28/2003	Manish K. Deliwala	03292.101710	4018
66569 7590 06/09/2008 FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
OBEID, FAHD A				
ART UNIT		PAPER NUMBER		
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06/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/628,731

Applicant(s)

DELIWALA ET AL.

Examiner

FAHD A. OBEID

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/309)
Paper No(s)/Mail Date 03/05/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

1. This is in reply to application filed on 03/05/2008.
2. Claims 1-4 have been amended.
3. Claims 1-4 are currently pending and have been examined.

Double Patenting Rejection

1. **Claims 1-4** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 1-12** of copending Application **No. 10/708,566**. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Instant Claim

1

2

Claims in Application # 10/708,566

1

3, 10, 11

3	3, 4, 5
4	12

2. Regarding Claim 1: claim 1 differ from claim 1 in the 10/708,566 application as follows:

- Receiving billing information is encompassed by the term of (receiving user information which includes billing information).
- Reading a business model file is encompassed by the term of (receiving user information which includes business model file);
- Comprising various business dimensions such as business processes and organizational information is encompassed by the terms of (user information includes billing information, application profile, or loyalty information).

3. Regarding Claim 2: claim 2 differ from claims 3,10, and 11 in the 10/708,566 application as follows:

- Business processes which is encompassed by the terms (total computer usage time, account, project, process, division, or accounts billed for the usage).
- Organizational information which is encompassed by the term (user information).
- Associated business performance metrics which is encompassed by the term (computer usage time associated with each identifier, users associated with the computer usage, and processing power associated with each usage).

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4. Regarding Claim 3: Claim 3 differ from claims 3, 4, and 5 in the 10/708,566 application as follows:

- Plurality of groups is encompassed by the term (user).
- Plurality of sub-groups is encompassed by the term (recognizing a user and assigning an identifier to said user).
- Determining costs incurred by each sub-group is encompassed by the term (allocating said technology resource billings).

5. Regarding Claim 4: claim 4 is identical to claim 12 in the 10/708,566 application.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (6,169,979) in view of Ginter (US 5,910,987).

9. Regarding Claim 1: Johnson discloses a method for tracking costs incurred by an entity comprising a plurality of groups, said method comprising:

- Receiving billing information from a provider (fig 4, col 2 lines 1-10, and claim 1).
- Allocating said billing information by the said at least one business dimensions (such as conservation programs that classifies power and cost consumption to gas, electricity, and water; see col 2 lines 43-57).

Johnson does not explicitly disclose reading a business model file.

However, Ginter does disclose the following:

- Reading a business model file comprising at least one business dimension within said entity (col 46 lines 37-40 and col 253 lines 11-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Ginter's teachings in Johnson's sales system for utilities enabled, for the advantage of monitoring usage and billings within an entity.

10. Regarding Claim 2: Johnson discloses a method of claim 1 wherein said at least one business dimensions comprise:

- At least one business process (such as utility services, conservation programs, or customer's inventory see col 2 lines 43-46).
- Organizational information (customer information see fig 3 and col 5 lines 30-40).
- An associated business performance metrics (such as glazing rebate which provides a rebate on energy cost if the customer installs a particular film on windows to reduce power consumption; see col 2 lines 46-52 and col 5 lines 12-24).

11. Regarding Claim 3: Johnson discloses a method of claim 2 wherein said organizational information includes:

- Said plurality of groups, wherein (groups such as customer's utilities where the subgroups are power, gas, electricity, light, water, or steam; see col 2 lines 43-57).
- Said allocating step further comprises determining costs incurred by each of said plurality of groups (a conservation programs module stores information related to a utility company's energy; see col 2 lines 43-57, col 4 lines 66-67, col 25 lines 1-24).

12. Regarding Claim 4: Johnson discloses a method of claim 1 wherein said reading step comprises:

- Determining an internal structure of said entity, including said plurality of groups within said entity (groups such as customer's utilities where the subgroups are power, gas, electricity, light, water, or steam; see col 2 lines 43-57).
- Determining a billing detail of said plurality of groups within said entity (col 13 lines 41-53, col 24 lines 52-55, and col 25 lines 52-55).
- Determining a value driver of said entity (such as determining how various factors and parameters will affect the customer's utility consumption and cost; see abstract and col 26 lines 15-24).
- Determining an application profile of said entity (col 20 lines 25-50).

Response to Arguments

13. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 03/05/2008 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/
Examiner, Art Unit 3627
05/28/2008

/F. Ryan Zeender/
Supervisory Patent Examiner, Art
Unit 3627